

# *A WALK THROUGH THE JOINT ETHICS REGULATION*



JER (DoD 5500.7-R)

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# CHAPTER 1



- Definitions – “DoD employee” very broad;  
“Ethics Counselor”
- General Policy – single source;  
applicable to all, at every level
- Responsibilities – “Each DoD employee” shall:
  - be familiar with and abide by Ethics rules, and
  - report violations
- References

# Chapter 2 - Standards of Conduct (Adopts 5 CFR 2635)



- Part A - General Provisions – **“Bedrock Standards”**  
(from EO 12674)
- Agency obliged to take disciplinary action; if not, OGE can order it to be done
- Employees with questions should **ask Ethics Officials** –  
Disciplinary action MAY NOT be taken after ethics counselor advice (assumes good faith and full disclosure)

# Part B - OUTSIDE GIFTS

- Never solicit or coerce
- Don't accept from prohibited source or in any way related to your job, unless an exception applies
  - “but for” test for job-relation
  - “prohibited source” – seeks or does business with us, or is regulated or affected by us (or is a group composed mostly of any of the preceding)
- Response is to decline it, return it, or pay for it
- ...**even if** an exception might apply, don't accept if:
  - it's given **to influence** an official act
  - it looks like it's **to compensate** you for what you do in your job (for our jobs, pay comes from Gov't only)
  - it's from a **frequent donor**, such that it might look funny to the average taxpayer
  - wouldn't be prudent

# *GIFTS - defined*



- anything of value; favor, discount, services, entertainment...
- “Exclusions” from definition:
  - soft drinks, light refreshments that don’t add up to a “meal”
  - greeting cards, things of “little intrinsic value”
  - things generally available to public, or to all gov’t employees
  - things duly paid for, or accepted by, the gov’t
  - things you pay for (fmv)

# *Outside Gift “Exceptions”*



- **\$20/\$50 rule** (but not cash or stock...)
- From a **family member/close friend**...gift motivated by friendship, not business
- **Discounts** (if “Widely Available”)
- **Awards/Honorary Degree**
  - given for meritorious public service/achievement...
  - from other than prohibited source
  - if at all cash, or value exceeding \$200, need ethics official chop
- **Scholarship/Grants** – similar analysis
- Based on **Outside Business or Employment** (or Spouse’s); not related to official status
- From a **Political Organization** – assuming Hatch Act exemption applies
- Attendance, food at **Widely Attended Gathering** (or when speaking on behalf of agency)– first get ethics determination of “agency interest”

# *Outside Exceptions, cont'd*



- Food, etc. at official **Social Invitations** – if not from prohibited source, and no one there pays attendance fee
- **Meals etc. in Foreign Areas** – where attendance is part of official duties
- **State/Local/Civic Events** – w/ethics chop
- **President/Vice President**
- **Other Agency Reg**
- **Other Specific Statute**
  
- **(Gifts from Foreign Gov'ts, and Gifts to the Navy, have special rules)**

# Part C - INSIDE GIFTS

- **Gifts to Superiors**

- Can't give, or solicit another to give, a gift to superior – directly or indirectly
- Higher paid employee can't accept

## **EXCEPTIONS...**

- On **occasional, traditional basis**, if:
  - Less than \$10 value (but no cash)
  - Food, light refreshments shared in office
  - Customary personal hospitality in residence
  - Response to such personal hospitality
  - Transferred leave (but not to immed supervisor)
- **Special, infrequent occasions**
  - Marriage, illness, birth/adoption
  - Change of Command (\$300 total/\$10 each)
  - may solicit, but must be clearly voluntary (no lists, have junior person collect)



# Parts D & E - Conflicting Financial Interests & Impartiality

- Can't participate officially in a matter in which you have a financial interest
  - Includes interests of spouse, member of household, minor child, partner, organization, prospective employer – “covered rel'ps”
  - Must divest or disqualify (notify boss in writing)
  - Can request waiver, with full disclosure
  - Disqualify if you rec'd “Extraordinary payment from **former employer**” (w/in 2 years of official action / \$10k / after future gov't employ known...)
- Avoid even appearance of loss of impartiality
- **Solicited Sales** - Can't solicit or sell to junior employee, or the family thereof, on or off duty...
  - Doesn't apply to sale/lease of non-commercial (i.e. personal, one-time) personal/real property
  - Doesn't apply to retail sales as part of off-duty employment

# *Part F - Seeking Other Employment*




- Must disqualify yourself from matters involving prospective employers
- Notify boss, co-workers
- May seek waiver from disqualification/divestiture

# *Part G - Misuse of Position*



- **Government Job (can't use, or allow it's use)...**
  - for private gain (of self or others)
  - to endorse any non-Federal “product, service or enterprise” (directly or by implication)
  - to disclose “nonpublic info”
- **Government Property**
  - Can't use it (or allow it's use) for non-official purposes
  - “property” broadly defined - includes time (of self or another), communication systems (incl. email) vehicles...everything
  - limited exceptions if...
    - no additional cost
    - no interference with job, and no commercial use
    - no bad reflection on DoD

# *Part H - Outside Employment (& other activities)*



- Notify boss of employment
- Get annual ethics opinion if required (here – all students, faculty, 450/278-filing staff)
- No conflicts of interest, readiness/security risks, or add'l pay for official duties
- No use of official title to infer DoD sponsorship or endorsement
- Fundraising/gambling on duty/onbase generally prohibited, with limited exceptions
- Must pay just debts, esp. taxes

# *Teach, Speak, Write*



- Can't accept compensation (except travel expenses) if it **“relates to official duties”**:
  - Undertaken as part of duties
  - Primary cause for invitation was official position (as opposed to individual expertise)
  - Invitation is from prohibited source
  - Ideas conveyed draw substantially from nonpublic info
- can include gov't grade/title as one of many biographical details, but must then include disclaimer, if it substantially relates to DoD matter

# Chapter 3 - Non-Federal Entities

- Can **attend** meetings/conferences/seminars etc., of non-Fed entity, at gov't expense, if
  - legit Federal purpose (like training)
  - involves more than just maintaining minimum credentials needed to get the job
- **Membership** in NFE in official capacity:
  - Can serve on NFE as DoD liaison, as part of official duties (if there's "significant and continuing" DoD interest served)
  - May not serve in management of NFE, as part of official duties, with very limited exceptions (NMCRS)
  - No add'l salary or supplement
  - (Can be in mgt of NFE in **individual capacity**... completely unrelated to the scope of official duties/status – but don't imply DoD endorsement)

# Co-Sponsorship w/NFE

- To “co-sponsor” means to take part in developing the substantive aspects of the event, or providing substantial logistic support for the event
- Can’t do it, except:
  - Civic/community activity (but not fundraising or membership drives) with recognized, approved org.; or
  - Conference, seminar, etc... (if subject matter is “scientific, technical or professional issue” relevant to DoD mission
    - Purpose is to transfer tech / stimulate interest in issue
    - Written agr’t on details / disclaimer of endorsement
    - No admission fee (beyond covering cost)

# NFE Events

- can't officially endorse NFE event (or appear to endorse), except CFC, NMCRS, emergency or disaster appeals...
- can provide **limited logistical support** (but not people – and not for fundraising/mem'p drives) to NFE events if:
  - No interference with mission
  - Serves community relations
  - Appropriate to associate DoD with the NFE
  - Interest/benefit of both local community and DoD
  - Ready to provide same support to similar NFEs
  - No statutory/regulatory restrictions on use
  - No admission fee, beyond cost
- Support of “fundraiser” OK for charities (CFC-affiliated, OPM approval)
- (different rules apply to MWR use of Cat C property)



# Chapter 4 - Travel Benefits



- Gifts of Travel – from non-Fed sources
  - Can be paid in-kind, or by reimbursement to Treasury
  - Must be approved prior to travel, report done after travel
  - (Different rules if source is a tax-exempt org)
- FF miles, travel coupons, promotional items, tickets etc. are gov't property (keep separate acct for personal travel)
  - Should be used primarily **to purchase tickets for subsequent official travel**

# Travel, cont'd



- Travel in **coach class** on official travel
  - **1<sup>st</sup> Class** requires SECNAV approval (i.e. disabled, national security, life endangered)
  - **Premium (business) class** OK only if
    - it's the only class available on that route, or
    - paid w/FF miles (but see primary use of FF miles), or
    - coach is full and travel is urgent, or
    - non-Fed source is paying, or
    - 3- or 4- stars
  - On-the-spot (free) upgrades OK, if available to general public (but no 1<sup>st</sup> class in uniform)

# Ch. 5 - Conflicts of Interest

(Adopts 5 CFR 2640)

- Restates general principles of Ch. 2: can't participate officially in a matter in which you (or fam/pn) hold a financial interest
- Goes through many exemptions:
  - mutual funds, 401k
  - hiring decisions
  - less than \$5k of publicly traded security (\$25k if participation is “general”, like rulemaking that affects many companies, vice specific to the particular interest)
- Waivers available (in advance only, and w/full disclosure)

## *Ch. 5, cont'd*



- No Bribery or Graft
- Federal govt can't contract with a DoD employee
- No compensation for official services from any source other than govt salary, even if after-hours
- No commercial dealings w/junior employee
- Military officer can't hold civil office

# *Chapter 6, Political Activities*

*(Adopts 5 CFR 734)*

- OK to join/serve a political party, endorse a candidate, circulate a petition, display signs, work at the polls, etc...BUT
- ...not on duty, in uniform (or displaying any other indicator of official position), in any Federal place, or using any Federal property
- **Bottom Line** – can't associate DoD, directly or indirectly, with any partisan political cause or candidate

# Chapter 7 - Financial Disclosure

(Adopts 5 CFR 2634)

- Designed to identify actual or apparent conflicts of interest  
- annual filing/training requirement
- Public Filers (OGE 278) – GS 16 / Flag Officers
- Confidential Filers (OGE 450)– all COs/XOs of 500 or more, and all GS 15 / O6 and below whose position involves them in **deciding or exercising significant judgment** in the decision process of gov't taking action **affecting the economic interests of a NFE**
- Lists property/income/gifts/liabilities/outside activities

# *Chapter 8 - Seeking Other Employment*



- Same conflict of interest analysis – don't participate officially on a matter involving the financial interest of a prospective employer (or fam/pn employer)
- Can't communicate inside info to prospective employer

# Chapter 9 - Post-Government Employment *(Adopts 5 CFR 2637)*



- “switching sides”
- (Lifetime ban) - former employee ...can’t influence present employee on a matter he was “personally and substantially” involved with before he switched sides
- (2-year ban) - ...if it was something you had some “official responsibility” for (short of P&S involvement) in last year of govt service
- (Other rules for “senior” and “very senior”)



# *Chapter 10 - JER Enforcement*



- Federal criminal prosecution at DistCt (Title 18) or CtMartial (UCMJ)
- Civil prosecution by DoJ (for \$\$ owed)
- Administrative (HRO - disciplinary personnel action / termination)
- Employees who suspect a violation has occurred “shall report the matter”
  - ...failure to do so is actually an offense

# Chapter 11 - Training



- IET – w/in 90 days;
  - “each new employee”
  - accomplished by HRO thru indoc
- AET – Financial Disclosers only

# Chapter 12 - Ethical Conduct



- EO 12674 – **14 Bedrock Principles**, “to ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service:
- Public service is a public trust. Place loyalty to the Constitution, laws, & ethical principles above private gain.
- Hold no financial interests that conflict with the conscientious performance of duty.
- Engage in no financial transactions using nonpublic Government information. Allow no improper use of such information to further any private interest.

# *Bedrock Principles, cont'd*



- Do not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by your agency.
- Put forth honest effort in the performance of your duties.
- Make no unauthorized commitments or promises of any kind purporting to bind the Government.
- Do not use public office for private gain.
- Act impartially and give no preferential treatment to any private organization or individual.
- Protect and conserve Federal property and use it only for authorized activities.

# *Bedrock Principles, cont'd*



- Do not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official duties and responsibilities.
- Disclose waste, fraud, abuse, and corruption to appropriate authorities.
- Satisfy in good faith your obligations as citizens, including all just financial obligations, especially those such as taxes.
- Adhere to all laws and regulations that provide equal opportunity for all Americans.
- Avoid any actions creating the appearance that you are violating the law or the ethical standards of this order.